HIGH COURT OF JUDICATURE CHHATTISGARH : BILASPUR

DIVISION BENCH

CORAM : HON'BLE SHRI S.R. NAYAK, C.J.
HON'BLE SHRI D.R. DESHMUKH, J.

M.A. NO. 14 OF 2006

APPELLANTS APPLICANTS

1. Jainuddin, aged about 49 years, son of Seikh Chhotemiyan.
2. Smt. Noorjahan aged about 44 years, wife of Jainuddin

Both are resident of village Podi, Tahsil and Distt. Kawardha (C.G.), presently resided at Magarpara, Bilaspur (CG)

Versus

RESPONDENTS NON-APPLICANTS

1. Jaikaran @ Jairam Gujar, Aged about 34 years, son of Shri Ramasare Gujar, resident of Bhatthipura, Mohalla Jhansi Road (Near Tata Agency) Chhatarpur, P.S. Tarnalganj, Distt. Chhatarpur (Driver Truck No. MP 16/H/00130
2. Parmanand Ahuja, S/o. Late P.D. Ahuja, resident of Mahoba Road, Distt. Chhattarpur (MP)
3. Insurance Company, Branch Manager, The New India Insurance Co. Limited, Jawahar Marg, Chhatarpur, through – New India Insurance Company Limited, Rajendra Nagar Chowk, Bilaspur (C.G.)

Present : Ms. Bhagwati Kashyap, learned counsel for the applicants.

(ORAL ORDER)
(Passed on 14th February, 2006)

The following order of the Court was passed by

S.R. Nayak, CJ.

In this appeal preferred by the dependants of the deceased seeking more compensation, what was contended by learned counsel for the

appellants is that the MACT is not justified in taking the annual income of the deceased at notional rate of Rs.15,000/-. It was also contended that the MACT has not applied appropriate multiplier to assess loss of dependency. We do not find any merit in both the contentions. Though, it was claimed that the deceased was earning monthly income of Rs.3,000/- by doing cycle repairs, to substantiate that plea and income, no evidence is laid by the claimants – appellants before the MACT. In the absence of any evidence whatsoever, we do not think that the MACT has committed any illegality in taking the annual income of the deceased at notional rate of Rs.15,000/-. The second contention is also devoid of merit. On the date of the accident, the first appellant, father of the deceased was aged 49 years and the second appellant, mother of the deceased was aged 44 years. The average age of the two appellants would come to 46.5 years. In the circumstance, the MACT ought to have applied multiplier 13, but, it has applied multiplier 15 to the advantage of the appellants. The contention that the MACT ought to have determined appropriate multiplier taking into account the age of the deceased and not the age of the parents of the deceased is not acceptable to us nor it is in consonance with the settled position of law. The appeal is devoid of merit and it is accordingly dismissed. No costs.

Sd/-
Chief Justice

Sd-/
Dilip Raosaheb Deshmukh
Judge